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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,650	12/17/2001	Errol D'Souza	4665/7	1844
29858	7590	02/11/2004	EXAMINER	
BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP 900 THIRD AVENUE NEW YORK, NY 10022			SALCE, JASON P	
			ART UNIT	PAPER NUMBER
			2611	
DATE MAILED: 02/11/2004				7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,650

Applicant(s)

D'SOUZA ET AL.

Examiner

Jason P Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/17/03 have been fully considered but they are not persuasive.

Applicant argues that the mode menu of Schein fails to read on the claim limitation of "selecting a control to present the editorial content index page, while the electronic program guide is displayed". The examiner notes that this limitation is broad, and that a control cannot only read on the mode menu, but also the selection of the "Headline News" tile in Figure 20B, which takes you into the menu of Figure 20C.

Applicant also argues that Schein fails to teach the claim limitation of "receiving an editorial content index page and one or more editorial content items, selecting a link to an editorial content item from the set of one or more links and presenting the editorial content item on the display device. The examiner notes that these limitations still read on the Figures 20B and 20C, which allow a user to select from an editorial content index page (Figure 20B OR Figure 20C) and selecting a link (program tile) which leads to displaying the editorial content item (either the news menu item in Figure 20B or the actual news story in Figure 20C). Applicant further states that Schein provides selecting news items. The examiner notes that these news items are editorial content. The broadcaster selects news stories; therefore the broadcaster is selecting which programs to air, and is therefore his/her opinion. Also, news broadcasts themselves are particularly geared toward a certain opinion. For example, "Hilary Clinton Under Fire" is an opinion on a recent even, that may or may not place Hilary Clinton in a position for

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criticism. Therefore, the claim limitations are broad, and both interpretations stated above read on the claim limitations.

Applicant also argues that claims 7, 12 and 16 are all patentable over Schein for the same reasons stated in the arguments presented for independent claim 1. See arguments above.

Therefore the rejection in the previous Office Action stands, and is presented below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schein et al. (U.S. Patent No. 6,002,394).

Referring to claim 1, Schein discloses receiving an editorial content index page and an editorial content item at a client device (see Column 7, Lines 39-43 for a board located at the viewer's television set (client device) for receiving program guide information). The examiner notes that the applicant's disclosure of "editorial content" is broad and encompasses "a wide variety of opinions and facts regarding programming, typically entertainment and other audio/video information, distributed over a distribution network such as a cable television network". Schein discloses that program schedule information is transmitted to a client device (see again Column 7, Lines 39-43), and that the program schedule information is kept in a database (Column 7, Lines 16-19), and

the database contains a N.E.W.S. (news, entertainment, weather, and sports) database, which includes story text and story ids. This data constitutes as "editorial content" as stated by the applicant, since news (as well as sports, weather, and reviews (opinions) of programs) data stored in the database, inherently contains facts relating to programming content.

Schein also discloses that while the electronic program guide is displayed (see display of element 502, which is an electronic program guide in Figure 16A), selecting a control to present the editorial content index page on the display device (see element 512 in Figure 16A, which provides a scrolling list of options shown in Figure 20A, in which "World of Services" has been selected), the editorial content index page comprising a link to the editorial content (see Figure 20B for a list of "editorial content"). The examiner notes that the index of editorial content displayed in Figure 20B inherently contains facts and opinions about specific programming.

Schein also discloses selecting a link to an editorial content item from the set of one or more links (see Column 23, Lines 50-64) and Figures 20B and 20C to show selection of a message containing editorial content).

Schein also discloses presenting the editorial content item on the display device (see Figure 20C).

Referring to claim 2, Schein discloses that the editorial data comprises graphics data (see element 528 in Figures 20A-20C and Column 22, Lines 3-8 for a description of a preview window, which contains graphics that are displayed in accordance with

what is highlighted in matrix 506), and rendering the graphics data (see element 124 in Figure 3 and Column 8, Lines 58-67 and Column 9, Lines 1-18).

Referring to claim 3, Schein discloses that the editorial content item comprises video data (see element 528 in Figures 20A-20C and Column 22, Line 3-8 for a description of a preview window, which contains video that is displayed in accordance with what is highlighted in matrix 506).

Referring to claim 4, Schein discloses that the editorial content item comprises interactive program code (see presenting a "super mall" for purchasing products at Column 23, Lines 46-48) and wherein presenting the editorial content comprises executing the interactive program code (see Column 23, Lines 55-65 for accessing a special database that provides additional information from an online service provider or the Internet when "headline news" is selected).

Referring to claim 5, Schein discloses that the interactive program code comprises functionality that allows a client device to interact with a remote program code and data (see rejection of claim 4 in relation to accessing an online service provider or the Internet upon selection of "headline news").

Referring to claim 6, Schein discloses determining a type of the editorial content item (see Figure 20B for selecting either "Headline News", "Sports", or "Music Videos" for example). It is inherent that the system knows which item is being chosen for display.

Schein also discloses selecting a rendering program based on the type of the editorial content item (see Figure 20C for displaying items related to "Headline News").

Also note element 124 in Figure 3 for formatting certain information to be displayed based on which program has been selected (see Column 8, Lines 58-67 and Column 9, Lines 1-18).

Schein also discloses executing the rendering program to present the editorial content item on the display device (see Figure 20C after the selection of "Headline News" in Figure 20B).

Referring to claim 7, see rejection of claim 1. Also note that pointers are analogous to links as described in claim 1.

Referring to claim 8, Schein discloses receiving the editorial content index page and an editorial content item at a client device on a periodic basis (see Column 2, Lines 62-67 for downloading the television schedule at a specified time).

Referring to claim 9, Schein teaches that the database information that comprises the electronic program guide is sent in a carousel fashion (see Column 12, Lines 38-40).

Referring to claim 10, Schein discloses exiting the editorial content index page (see Column 13, Lines 18-20 for a description of how every screen has an exit function). Schein also discloses presenting the electronic program guide and editorial content control upon exiting the editorial content index page (for example, if the user exits Figure 20B, he/she can then go back to Figure 20A, which contains the program guide and content control).

Referring to claim 11, Schein discloses exiting the editorial content index page (see Column 13, Lines 18-20 for a description of how every screen has an exit function).

Schein also discloses presenting a channel displayed on the display device when the step of presenting the electronic program guide is executed (see program area 526 in Figure 16A and Column 22, Lines 3-5).

Referring to claim 12, see rejection of claim 1. Also note that Schein discloses a preview area 528 at Column 22, Lines 5-8, which concurrently displays program information with a tuned channel (see program area 526 at Column 22, Lines 3-5).

Referring to claims 13-14, see rejection of claims 10-11, respectively.

Referring to claim 15, see rejection of claim 1.

Referring to claim 16, see rejection of claims 1 and 2.

Conclusion

3. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-


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1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-5359.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

February 2nd, 2003



VIVEK SRIVASTAVA
PRIMARY EXAMINER